

REMARKS

Applicant appreciates the time taken by the Examiner to review Applicant's present application. This application has been carefully reviewed in light of the Official Action mailed on March 19, 2008 ("Office Action"). Claims 1-23 were canceled previously. Claims 24-34 were pending. Claims 24-26 and 28-34 were rejected. Claim 27 was objected to as being dependent upon a rejected base claim and was indicated as would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 24 is amended herein to incorporate the limitations of claims 25-27. Claims 25-27 are correspondingly cancelled herein. No claim is newly added. Thus, claims 24 and 28-34 are now pending. Applicant respectfully requests reconsideration and favorable action in this case.

Claim Objections

Claim 27 was objected to as being dependent upon a rejected base claim. Claim 27 is cancelled herein. Accordingly, Applicant respectfully submits that this objection is moot and withdrawal of this objection is respectfully requested.

Rejections under 35 U.S.C. § 103

Claims 24-26 and 28-34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,179,838 B1 ("Fiz") in view of U.S. Patent No. 5,356,412 ("Golds"). Applicant respectfully disagrees with the Examiner's statement on page 4 of the Office Action "[i]t would have been obvious to a person having ordinary skill in the art at the time the invention was made to have substituted the pedicle screw of Fiz with the flexible ligature of Golds et al. to achieve the predictable result of attaching the device to a bone." However, as a good faith attempt to expedite prosecution of the present application, independent claim 24 is amended herein to incorporate the allowable subject matter of claim 27. Claims 25-26 are canceled herein. Claims 28-34 depend from claim 24. If an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Thus, it is believed that all pending claims 24 and 28-34 are now allowable under 35 U.S.C. § 103(a), thereby placing the present application in a condition for allowance. Accordingly, withdrawal of this rejection is respectfully requested.

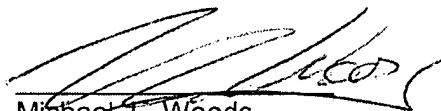
CONCLUSION

Applicant has now made an earnest attempt to place this case in a condition for allowance. Other than as explicitly set forth above, this reply does not include any acquiescence to statements, assertions, assumptions, conclusions, or any combination thereof in the Office Action. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests full allowance of the pending claims 24 and 28-34.

The Examiner is invited to telephone the undersigned at the number listed below for prompt action in the event any issues remain.

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Respectfully submitted,
Mazda et al.

A handwritten signature in black ink, appearing to read "Michael L. Woods", written over a horizontal line.

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